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No. 88-352 (2)

In the Supreme Court of the United States

OCTOBER TERM, 1988

GORDON J. HUMPHREY, ET AL., PETITIONERS,

v.

NICHOLAS BRADY, SECRETARY OF THE TREASURY, ET AL., RESPONDENTS

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM OF THE HONORABLE JACK RUSS, SERGEANT-AT-ARMS OF THE UNITED STATES HOUSE OF REPRESENTATIVES, IN OPPOSITION TO THE PETITION FOR A WRIT OF CERTIORARI

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The Honorable Jack Russ, Sergeant-At-Arms of the United States House of Representatives, is responsible for the disbursement of the salaries of Members of the House. See 31 U.S.C. § 148. In that capacity, he was named as a defendant by Plaintiff-Petitioners. The House Sergeant-At-Arms joins with the other defendants in opposing the grant of certiorari.

In general, the House Sergeant-At-Arms agrees with and joins in the arguments presented by the Secretary of the Treasury. Like the Secretary, the House respondent believes that both the district court and the court of appeals were correct in recognizing that the Federal Salary Act of 1967, as amended, is constitutional and that this case is controlled by this Court's summary affirmance in *Pressler* v. *Simon*, 428 F. Supp. 302 (D.D.C. 1976), (Three-judge court), *vacated and remanded*, 431 U.S. 169 (1977),

opinion reinstated, (D.D.C. July 19, 1977) (Three-Judge Court), *aff'd sub nom., Pressler* v. *Blumenthal,* 434 U.S. 1028 (1978).

Like the Secretary, the House respondent believes that the court of appeals correctly relied upon its decision in *Melcher* v. *Federal Open Market Committee,* 836 F. 2d 561 (D.C. Cir 1987), *cert. denied,* No. 87-1546 (1988), to find that Plaintiffs had not presented a justiciable case. While there are certain interbranch disputes for which the House Respondent believes that judicial resolution must be available, this dispute, which is essentially intra-branch, is not among them.

CONCLUSION

The petition for a writ of certiorari should be denied.

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